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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,636	01/13/2006	Tomohiro Yamada	050863	2130
23850 7590 11/17/2008 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005				
EXAMINER				
RASHID, HARUNUR				
ART UNIT		PAPER NUMBER		
4143				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,636

Applicant(s)

YAMADA, TOMOHIRO

Examiner

HARUNUR RASHID

Art Unit

4143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 1/13/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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11/05/08

DETAILED ACTION

1. Claims 1-8 are pending in the application and filed on 01/13/2006.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claim 1, the claim recite "a content output control apparatus", that constitutes software modules or blocks per se (a writing means..., a reading means..., and an accepting means...). These means are nothing more software modules as evidenced by claim 5. The claim is not limited to statutory subject matter and is therefore nonstatutory.

Likewise, claims 2-4 are dependent claims that depend on claims 1 and fail to resolve the above problems, therefore, claims 2-4 are also rejected under 35 U.S.C 101.

As to claim 5, the claim recite "a content output control program to be executed by a content output apparatus". "A content output control program to be executed" just

limited to software modules or block per se, as evidenced by the claim itself (program comprising a writing step, a reading step and an accepting step). The claim is not limited to statutory subject matter and is therefore nonstatutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Zervas et al. (herein after Zervas) WIPO International publication Number WO-02/23910A1.

As to claim 1, Zervas discloses a content output apparatus that outputs any one of N contents (N: 2 or any larger integer) individually transmitted through N channels registered in a predetermined order (Page 13, lines 11-15), the content output apparatus comprising: a writing means for respectively writing M contents (M: an arbitrary integer that is 2 or larger and N or smaller) transmitted through M channels that exist in a predetermined order (Page 13, lines 11-15), and include a desired channel

into M buffer memories (Page 4 & 13, lines 18-30 & 11-15); a reading means for reading a content transmitted through said desired channel from any one of said M buffer memories (Page 7, lines 7-10); and an accepting means for accepting changes of said desired channel in said predetermined order (Page 10&13, lines 1-7&11-15).

As to claim 2, Zervas discloses a content output apparatus according to claim 1, wherein said writing means includes an updating means for updating any one of said M buffer memories in response to the change of said desired channel (Page 8, lines 11-20).

As to claim 3, Zervas discloses a content output apparatus according to claim 1, further comprising: a holding means for holding a table in which said N channels are registered in said predetermined sequence (Page 14, lines 15-17); and a specifying means for specifying said M channels by reference to said table held by said holding means (Page 13, lines 16-22).

As to claim 4, Zervas discloses a content output apparatus according to claim 1, wherein said contents are streaming contents transmitted in real time (Page 2, lines 3-4 & 10-11).

As to claim 5, Zervas discloses a content output control program to be executed by a content output apparatus that outputs any one of N contents (N: 2 or any larger integer)

individually transmitted through N channels registered in a predetermined order (Page 4 & 13, lines 18-30 & 11-15), the content output control program comprising: a writing step of respectively writing M contents (M: an arbitrary integer that is 2 or larger and N or smaller) transmitted through M channels that exist in a predetermined order and include a desired channel into M buffer memories (Page 4 & 13, lines 18-30 & 11-15); a reading step of reading a content transmitted through said desired channel from any one of said M buffer memories (Page 7, lines 7-10); and an accepting step of accepting changes of said desired channel in said predetermined order (Page 10&13, lines 1-7&11-15).

As to claim 6, Zervas discloses a content output control method to be practiced by a content output apparatus that outputs any one of N contents (N: 2 or any larger integer) individually transmitted through N channels registered in a predetermined sequence (Page 4 & 13, lines 18-30 & 11-15), the content output control method comprising: a writing step of respectively writing M contents (M: an arbitrary integer that is 2 or larger and N or smaller) transmitted through M channels that exist in a predetermined order (Page 13, lines 11-15), and include a desired channel into M buffer memories (Page 4 & 13, lines 18-30 & 11-15); a reading step of reading a content transmitted through said desired channel from any one of said M buffer memories (Page 7, lines 7-10); and an accepting step of accepting changes of said desired channel in said predetermined order (Page 10&13, lines 1-7&11-15).

As to claim 7, Zervas discloses a content output control method according to claim 6, wherein said reading step includes a changing step of, when the change of said desired channel is accepted in said accepting step, changing a buffer memory from which content is to be read (Page 8, lines 11-20).

As to claim 8, Zervas discloses a content output control method according to claim 6, wherein said writing step includes a replacing step of, when the change of said desired channel is accepted in said accepting step, replacing any one of said M channels with any one of channels that are included in said N channels and are not included in said M channels (Page 13, lines 11-20).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Payton, David w. (Patent No: US-5790935)
- b. Nakano, Masahisa (Patent No US-6823366)
- c. Liebenow, Frank (PGPUB No US-2004/0221055)
- d. Wugofski, Theodore (Patent No: US-6990680)

5. Examiner's Note: Examiner has cited particular columns/paragraphs/pages and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARUNUR RASHID whose telephone number is (571)270-7195. The examiner can normally be reached on Monday - Friday; 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-Hady can be reached on 571-272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HR

11/05/2008

/Nabil El-Hady/

Supervisory Patent Examiner, Art Unit 4143